

### **REMARKS**

Claims 1-9, 12 and 13 are currently pending in the instant application. Claims 1-5, 8, 9, 12, and 13 have been amended. Claims 1-5 have been amended to recite the structures of variable C. Claims 8 and 12 have been amended to recite "an inert carrier and with or without a diluent". Claims 9 and 13 been amended delete the phrases "or preventing" and "benign or".

No new matter has been added. In light of the above amendments, claims 1-9, 12 and 13 are under active consideration in this application.

### **Interview Summary**

Examiner, Sudhaker B. Patel, initiated a telephonic interview with Attorney for Applicants, Susan K. Pocchiari, on April 20, 2004 wherein claims 1-9, 12 and 13 were discussed. Agreement with respect to the claims was not reached. No exhibits or prior art were discussed. The Examiner informed Attorney that the claims were not ready for allowance in their present state. The Examiner also informed Attorney that certified copies of the foreign priority applications are not in the e-DAN file received by the Examiner. Attorney for Applicants agreed to provide said certified copies (attached hereto). Due to a lack of availability of Applicants, the Examiner agreed to mail a Final Office Action for Attorney's review with Applicants abroad and for preparation of a response.

### **Priority**

The Examiner has indicated that the records and the eDAN electronic file as received by the Examiner for the instant application are missing the certified true copies of German Application Nos. DE 199 28 281 and DE 100 23 085, filed June 21, 1999 and May 11, 2000, respectively, to which the instant application claims priority.

Submitted herewith are certified true copies of German Application Nos. DE 199 28 281 and DE 100 23 085, filed June 21, 1999 and May 11, 2000.

### **Rejections under Section 112**

According to the Examiner, the rejection of claims 1-5, 7, 8, 9, 12, 13 under 35 U.S.C. §112, second paragraph as being indefinite are maintained for reasons already stated in prior Office communication paper dated July 8, 2003.

As a preliminary matter, Applicants respectfully point out that only claims 1-7 were rejected under Section 112, second paragraph in the prior Office communication dated July 8, 2003. Further, Applicants respectfully submit that claims 1-7 were amended according to the Examiner's suggestions in the Response filed January 8, 2004. Applicants respectfully request that the rejections under Section 112, second paragraph in the prior Office communication be withdrawn.

The Examiner cites the following additional reasons for rejection of claims 1-9, 12, and 13 under 35 U.S.C. §112, second paragraph as being indefinite.

According to the Examiner, claim 1 is indefinite in the recitation of variable C as "1,3-allenylene, 1,1- or 1,2-vinylene".

Applicants disagree and submit that the terms are clear and are commonly used terms that can be found in chemistry textbooks. However, claim 1 has been amended to recite the chemical structures of 1,3-allenylene, 1,1-vinylene and 1,2-vinylene. Applicants submit that one skilled in the art would know that 1,3-allenylene is  $-\text{CH}=\text{C}=\text{CH}-$  (allenyl group (from allene) substituted (by B and D, respectively) in position 1 and 3; the "-ene" signifying that the rest has two binding sites (for example, methyl:  $-\text{CH}_3$ ; methylene:  $-\text{CH}_2-$ )). Further, Applicants submit that one skilled in the art would know that 1,1-vinylene means  $>\text{C}=\text{CH}_2$  and 1,2-vinylene means  $-\text{CH}=\text{CH}-$ . Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner, claims 1 and 3 are indefinite in the recitation of variable C as "1,3-butadien-1,4-ylene".

Applicants disagree and submit that the term is clear and is a commonly used term that can be found in chemistry textbooks. However, claims 1 and 3 have been amended to recite the chemical structure of 1,3-butadien-1,4-ylene as  $-\text{CH}=\text{CH}-\text{CH}=\text{CH}-$  (1,3-butadiene as the Examiner pointed out, to which B and D, respectively, are linked in positions 1 and 4 (*i.e.*, instead of a hydrogen atom in the pure compound); in spite of the different resulting name of the entire molecule, the rest is exemplified for example, in Example 2, wherein B is carbonyl and D and E together are methyl). Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner, claims 1 and 3 are indefinite in the recitation of variable C as “ethynylene”.

Applicants disagree and submit that the term is clear and is a commonly used term that can be found in chemistry textbooks. However, claims 1 and 3 have been amended to recite the chemical structure of ethynylene as  $\text{—C}\equiv\text{C—}$ , *i.e.*, acetylene, bond to B on the one side/carbon atom and to D on the other side/carbon atom. Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner, claims 9 and 13 are indefinite in the recitation “or preventing”

Applicants disagree. However, claims 9 and 13 have been amended to delete the phrase “or preventing”. Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner claim 12 is indefinite in the recitation “with one or more inert carriers and/or diluents”.

Applicants disagree. However, claims 8 and 12 have been amended according to the Examiner’s suggestion to recite “an inert carrier and with or without a diluent”. Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner claim 12 is indefinite in the recitation “with one or more inert carriers and/or diluents”.

Applicants disagree. However, claims 8 and 12 have been amended according to the Examiner’s suggestion to recite “an inert carrier and with or without a diluent”. Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner claims 9 and 13 are indefinite in the recitation “benign or malignant tumors”.

Applicants disagree. However, claims 9 and 13 have been amended according to the Examiner's suggestion to recite a single tumor, *i.e.*, "malignant tumors". Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

According to the Examiner claims 1-9 are difficult to read what is exactly claimed.

Applicants disagree. However, claims 1-9 have been amended to replace the definitions of variable C by the respective chemical formula. Applicants submit that in light of the above amendments and remarks, this rejection under Section 112 has been overcome.

Applicants submit that in light of the amendments and remarks above, all of the rejections under Section 112, second paragraph have been overcome and must be withdrawn.

#### CONCLUSION

In light of the above amendments and remarks, Applicants submit that all of the objections and rejections have been overcome and must be withdrawn. Further, Applicants submit that the application is now in form for issuance and an early allowance is earnestly requested. If any issues remain, the Examiner is invited to telephone the Attorney at the number below.

Respectfully submitted,



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